STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1314

State of Minnesota,
Appellant,

vs.

Rebecca Julie Malecha,
Respondent.

Filed March 6, 2023
Reversed and remanded
Smith, John, Judge*
Concurring specially, Frisch, Judge
Dissenting, Slieter, Judge

Rice County District Court
File No. 66-CR-21-517

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Brian M. Mortenson, Rice County Attorney, Sean R. McCarthy, Assistant County Attorney, Faribault, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Melvin R. Welch, Welch Law Firm, Minneapolis, Minnesota (for respondent)

        Considered and decided by Frisch, Presiding Judge; Slieter, Judge; and Smith, John, Judge.

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We reverse the district court's order granting respondent's motion to suppress evidence obtained incident to an arrest because the police followed appropriate steps in verifying the validity of the warrant. As a result, a good-faith exception to the exclusionary rule applies when the warrant, which served as the basis for the arrest, had been withdrawn but not properly documented due to a clerical error. Because the district court erred in applying the exclusionary rule, we conclude that the evidence should be admitted and remand for further proceedings.

FACTS

On November 12, 2020, the district court issued a bench warrant on respondent, Rebecca Julie Malecha, after she failed to appear for her sentencing hearing.[1] Once the bench warrant was issued, the warrant was sent to the Rice County Sheriff's office and entered in the district court records otherwise known as the Minnesota Court Information System (MNCIS). About a month later respondent's trial counsel moved to quash the warrant. On December 15, 2020, the district court granted respondent's request to quash the warrant, but the recall of the warrant did not appear on MNCIS because of a clerical error made by district court administration. The clerical error was failing to provide notice of the recalled warrant. Thus, Rice County Sherriff's office did not receive notice that the warrant was recalled, nor did the district court administration contact the sheriff's office.

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[1] The parties stipulated to these facts at the May 24, 2022, hearing.

Notably, the error was not discovered until respondent's arrest on March 7, 2021.

The next day, district court administration issued a notice of judicial determination stating:

> This notice is to provide verification that, based on [respondent's] request, [the district court] did grant the request to recall the warrant on December 14, 2020. The request was processed, and the warrant was recalled on December 15, 2020.

In other words, the district court backdated the recall of the warrant to reflect the December 15, 2020, date.

On March 7, 2021, police officers from the Faribault Police Department were dispatched to conduct a welfare check on a woman behaving suspiciously and possibly waiting for someone. When officers arrived, they identified the woman to be respondent and suspected that respondent had an active warrant. To confirm their suspicion, the police officers contacted dispatch. Dispatch contacted the National Crime Information Center and the Rice County Jail, and both reported the warrant as active. Within a couple of minutes, dispatch relayed that information back to the police officers.

Based on the information received, the police officers placed respondent under arrest. Following the arrest, officers performed a search incident to arrest and found respondent in possession of controlled substances. Consequently, the state charged respondent with four felony counts in violation of: (1) Minn. Stat. § 152.022.1 (2020); (2) Minn. Stat. § 152.022.1(7)(ii) (2020); (3) Minn. Stat. § 152.023.2(a)(1)(2020); (4) Minn. Stat. § 152.023.2(a)(4) (2020). Respondent moved to suppress all evidence, arguing that the evidence was obtained in violation of her constitutional protections against unreasonable searches and seizure. A contested omnibus hearing was held on the search

and seizure issue. At the hearing, both parties agreed to submit briefs and then have the district court issue an order. The district court granted respondent's motion to dismiss and determined that respondent's arrest on a quashed warrant violated her constitutional protections against unreasonable searches and seizure and that all evidence obtained as a result should be suppressed. The state filed this pretrial appeal.

DECISION

The district court erred by concluding that the Fourth Amendment violation required applying the exclusionary rule as a remedy for a clerical error.

Appellant State of Minnesota argues that the district court erred by determining that a Fourth Amendment violation automatically requires the exclusionary rule to be applied as a remedy. We agree.

In a pretrial appeal by the state, an appellate court will only reverse if the state can "clearly and unequivocally show both that the trial court's order will have a critical impact on the state's ability to prosecute the defendant successfully and that the order constituted error." *State v. Zanter*, 535 N.W.2d 624, 630 (Minn. 1995) (quotations omitted). "When facts are not in dispute, as here, we review a pretrial order on a motion to suppress de novo and 'determine whether the police articulated an adequate basis for the search or seizure at issue.'" *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011) (quoting *State v. Flowers,* 734 N.W.2d 239, 247-48 (Minn. 2007)).

The Fourth Amendment and the Minnesota Constitution protect the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV; Minn. Const. art. I, § 10. "The first step

4

when analyzing an alleged constitutional violation is to determine whether the officer's conduct constituted a search or seizure." *State v. Sargent*, 968 N.W.2d 32, 37 (Minn. 2021). The second step is to decide whether it was unreasonable. *Id*. "A search or seizure conducted without a warrant is considered unreasonable per se." *Id*. However, a few specifically established and well delineated exceptions exist. *State v. Burbach*, 706 N.W.2d 484, 488 (Minn. 2005). The state has the burden to show that a warrantless search or seizure falls within an exception to the warrant requirement. *Sargent*, 968 N.W.2d at 37.

"A search incident to a lawful arrest is a well-recognized exception to the warrant requirement under the Fourth Amendment." *State v. Bradley*, 908 N.W.2d 366, 369 (Minn. App. 2018) (quotation omitted). An arrest is lawful if an officer has probable cause to believe that a person has committed a crime. *In re Welfare of G.M.*, 560 N.W.2d 687, 695 (Minn. 1997). "The arresting officer may then search (1) the arrestee's person, and (2) the area within the arrestee's immediate control." *Bradley*, 908 N.W.2d at 369.

The district court found that the police officers searched respondent because of the "misinformation provided to them that there was an active arrest warrant for [respondent]." It further found that "the warrant was quashed by the [d]istrict [c]ourt and thus [] no longer active." *Id*. As a result, the district court determined that because the warrant was recalled, the officers did not have a valid basis to arrest respondent, so their subsequent "search incident to arrest" was invalid. Thus, the district court applied the exclusionary rule and suppressed the evidence. We therefore agree with the district court that the warrant had been recalled and that the police officers did not a have a valid basis to arrest respondent

5

or to conduct a search incident to arrest. We agree that there was a Fourth Amendment violation, but disagree that the exclusionary rule applies.

Appellant argues on appeal that the "flaw in the district court's logic starts with its singular analysis of *Lindquist*, and ends with its erroneous conclusion that every violation of the Fourth Amendment automatically requires application of the exclusionary rule as a remedy." *See State v. Lindquist*, 869 N.W.2d 863, 864 (Minn. 2015). When evidence is obtained in violation of the Fourth Amendment, "[t]he exclusionary rule has traditionally barred from trial physical, tangible materials obtained either during or as a direct result of an unlawful invasion." *State v. McDonald-Richards*, 840 N.W.2d 9, 15 (Minn. 2013). The Minnesota Supreme Court has recognized that the "exclusionary rule was historically designed as a means of deterring police misconduct." *Lindquist*, 869 N.W.2d at 869. Moreover, "[t]he exclusionary rule does not require suppression of evidence seized in violation of the Fourth Amendment where the erroneous information resulted from clerical errors of court employees." *Arizona v. Evans*, 514 U.S. 1, 2 (1995).

It is undisputed that the police officers followed proper protocol when they responded to the welfare check on respondent. The exclusionary rule was meant to deter police misconduct and the police officers here did nothing wrong in executing what they believed (with good reason) was a valid warrant. The judiciary wants to promote the execution of its orders. Further, it does not want to have the police second guessing whether court orders are valid since that would be counterproductive and would not deter police misconduct. Therefore, we conclude that the exclusionary rule does not apply in

this case. The issue then becomes what the proper remedy should be in a unique case such as this one. Which bring us to the good-faith exception to the exclusionary rule.

The good-faith exception provides "that the exclusionary rule does not apply when the police conduct a search in objectively reasonable reliance on a warrant later held invalid." *Davis v. United States*, 564 U.S. 229, 238 (2011). In *Lindquist*, the Minnesota Supreme Court held that the good-faith exception applies only when law enforcement officers act under binding appellate precedent. 869 N.W.2d. at 876. The court noted the "narrowness" of its holding and explained that "nothing in [its] opinion should be construed as authorizing the application of exceptions we have not explicitly adopted." *Id*. Even though we recognize the narrowness of applying the good-faith exception, the Minnesota Supreme Court did not address a situation such as this one when it limited the scope of *Lindquist* to mistakes over binding appellate precedent cases. We also note that in *Lindquist* the Minnesota Supreme Court did cite *Evans* as an example of how the United States Supreme Court has declined to apply the exclusionary rule in circumstances where it would not serve the purpose of deterring police misconduct. 869 N.W.2d. at 869.

The *Evans* case is particularly instructive here. 514 U.S.at 1 In that case, the defendant was arrested by police officers after a routine traffic stop when a patrol car's computer revealed that there was an outstanding misdemeanor warrant for his arrest. *Id*. at 4. Upon arresting defendant, a police officer observed defendant drop a hand-rolled cigarette that smelled of marijuana. *Id*. Police officers searched his car and found him in possession of a controlled substance. *Id*. They later found out that the arrest warrant had been quashed 17 days before the defendant's arrest and that a clerk failed to contact the

7

sheriff's office to notify them of the quashed warrant. *Id*. Thus, the warrant still appeared

active at the time of the arrest. *Id*. The United States Supreme Court held that evidence

seized in violation of the Fourth Amendment because of clerical errors of court employees

fell within the good-faith exception to the exclusionary rule. *Id*. at 2.

Applying the principles recognized in *Lindquist* and *Evans*, we hold that the

circumstances of this case justify applying a limited good-faith exception. Like *Evans*,

there was no record of a warrant being recalled because of a clerical error and the warrant

stayed active at the time of the arrest. And like both *Lindquist* and *Evans*, there was no

police misconduct to deter. We conclude that the district court erred in determining that

the exclusionary rule applies, and we also conclude that the evidence should be admitted.

Reversed and remanded.

FRISCH, Judge (concurring specially)

This case presents the threshold question of whether law enforcement conducted a search of respondent Rebecca Julie Malecha incident to her arrest pursuant to an active arrest warrant. Malecha argues that because the warrant was recalled before her arrest, law enforcement conducted a warrantless search and the exclusionary rule requires suppression of the fruits of that search. The state, appealing here, argues that because law enforcement arrested and searched Malecha in reasonable reliance on contemporaneous records showing an active arrest warrant, the fruits of the search should not be suppressed and instead should be subject to a good-faith exception to the exclusionary rule. The district court agreed with Malecha and suppressed the fruits of the search pursuant to the exclusionary rule, concluding that Minnesota has not recognized an applicable good-faith exception.

Because law enforcement arrested Malecha pursuant to an active warrant and therefore searched Malecha incident to lawful arrest, the district court erred in its application of the exclusionary rule to suppress evidence discovered during the search. I therefore concur in the judgment reversing the district court's suppression order.

Factual Record

The circumstances of this case are unusual. In lieu of testimony, the parties at the suppression hearing submitted exhibits and agreed to a verbal "recitation of the facts" as "the parties agree them to be," summarized as follows.

On November 12, 2020, a district court judge issued a warrant for Malecha's arrest following her failure to appear. On November 13 at 11:05 a.m., the warrant became active.

On December 11, Malecha's counsel requested that the warrant be quashed. A December 15 entry in the register of actions at 12:40 p.m. lists the warrant as "Served."

On March 7, 2021, law enforcement came into contact with Malecha. Law enforcement contacted dispatch to inquire whether Malecha had an active arrest warrant. Dispatch contacted the jail to confirm whether Malecha had an active arrest warrant. The jail then looked at the actual warrant for Malecha's arrest, confirmed that it was active, and relayed to dispatch that the arrest warrant was active. At 5:09 p.m., dispatch confirmed to law enforcement that Malecha had an active arrest warrant. Law enforcement then arrested Malecha, performed a search incident to arrest, and discovered that Malecha was in possession of controlled substances. Law enforcement, dispatch, and the jail followed standard operating procedure to confirm the existence of the active arrest warrant.

On March 8, the next day, sometime between 9:35 and 10:08 a.m., changes to the official court record occurred. The December 15 line entry in the register of actions was changed from "Warrant Served" to "Warrant Recalled." The case information entry for December 15 at 12:40 p.m. was changed from "Served" to "Recalled Inactive." The record on appeal does not contain any other information about these changes to the official court record.

The same day, the court administrator filed a document titled "Notice of Judicial Determination." The "Notice" purports that "Judge Christine A Long . . . had previously reviewed [the] request to recall the warrant issued on November 13, 2020." The "Notice" purports to include a "Judicial Response" that the request was granted and that the "notice is to provide verification that, based on [the] request, Judge Long did grant the request to

recall the warrant on December 14, 2020. The request was processed and the warrant was recalled on December 15, 2020." Contemporaneous records of communications between court administration and the jail showing activity on arrest warrants do not show that a recall for Malecha's warrant was processed or that court administration notified law enforcement that the warrant had been recalled by a district court judge. The record does not contain any other information about the court administrator's "notice."

After receiving the summary of stipulated facts and stipulated exhibits at the contested omnibus hearing, the district court stated that "the question is pretty simple of whether or not the police can rely on the sheriff's office and dispatch for confirming a warrant if a judge signs a judicial determination, and it never gets processed through the computer system and relayed to everybody else." The district court later issued an order finding that at the time law enforcement arrested and searched Malecha, the warrant was not active and concluding that the search incident to arrest was constitutionally prohibited. It then suppressed evidence yielded from the illegal search, concluding that Minnesota has not recognized a good-faith exception to the exclusionary rule in such circumstances. The state appeals.

Analysis

The record on appeal presents many questions and offers few answers as to what happened with the arrest warrant at issue. Certain facts are verified in the record. On November 12, 2020, a district court judge issued an arrest warrant for Malecha, and the warrant became active the next day. A month later, Malecha's counsel requested that the district court order the recall of the warrant. Records of activity on the status of court

warrants around that time do not reflect any activity on Malecha's warrant. Four months

after the judge issued the warrant, law enforcement detained Malecha and arrested her after

confirming through the usual procedure that the warrant remained active. The next day,

the status of the warrant was changed by altering December 2020 entries in the official

court record to convert an active warrant to a recalled warrant. The same day, the court

administrator issued a "Notice of Judicial Determination" purporting that a district court

judge had granted a recall of the warrant on December 14 and that the recall was processed

the next day.

Certain facts are not verified in the record. There is no record from a district court

judge of a response to the December 11 request to recall the warrant. There is no

contemporaneous order from a district court judge or other court record documenting that

a judge recalled the warrant. There is no record of communication between any district

court judge and court administration at any time related to a recall of the warrant. There is

no record of communication between court administration and either the jail or law

enforcement at any time regarding a recall of the warrant. There is no information as to

what occurred between law enforcement's confirmation of the active warrant and changes

to the court record the following day. There is no information as to who changed the court

record, or what procedure was used to make such changes, or why such procedure was

used, or at who's direction (if any) such changes were made. There is no information about

the issuance of the "Notice of Judicial Determination" by the court administrator, including

any information as to whether the court administrator was directed or authorized by anyone

to issue such a notice or how the administrator acquired or verified the information set forth

in the notice. Given these unanswered questions, counsel for the state at the suppression hearing submitted the stipulated documents and then stated as part of the "recitation of the facts" as the "parties agree them to be" that, "I think that on December 15, Judge Long *probably* had at that time the *intention* to quash the warrant. . . . But *for whatever reason*, that communication didn't get to law enforcement." (Emphasis added.)

The void of information regarding the underlying events, especially the changes to the official court record, is troubling. The parties and the district court assumed that these irregularities originated from administrative error, and I do not discount that is one possibility as to what may have occurred. But we do not base legal determinations about the constitutional validity of a search on possibilities; we base such high-stakes determinations on facts as set forth in the appellate record. On appeal from a district court's pretrial decision to suppress evidence, we review a district court's findings of fact for clear error and legal determinations de novo. *State v. Brown*, 932 N.W.2d 283, 289 (Minn. 2019). And I am mindful of "the responsibility of appellate courts to decide cases in accordance with the law," and that "responsibility is not to be diluted by counsel's . . . failure to specify issues." *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (quotation omitted). The threshold and dispositive issue on appeal is the constitutional validity of the search. For the reasons set forth below, the district court's suppression order is contrary to law and based on clearly erroneous factual findings.

First, the district court's finding that the warrant had been recalled is contrary to law. The district court found that, as a matter of fact, "the recall [was] issued by Court Administration." That factual finding is supported by the record. But that factual finding

necessitates a legal conclusion that the purported recall of the warrant was ineffective because a court administrator has no legal authority to recall a warrant.

At oral argument, both parties agreed that only a judge has the authority to either issue or recall a warrant. That proposition, that only a judge can issue or change such a court order, is well-grounded. Judges are responsible for the issuance of process with respect to arrest warrants. *See* Minn. Stat. § 629.41 (2022) ("Judges . . . may issue process to carry out law for the apprehension of persons charged with offenses."); *see also City of St. Paul v. Tobler*, 153 N.W.2d 440, 443 (Minn. 1967) (explaining that the issuance of an arrest warrant "is a judicial function that cannot constitutionally be delegated to clerks. . . . Each judge holds separate office with legal competence to perform all relevant judicial acts."); *State v. Williams*, 409 N.W.2d 553, 555 (Minn. App. 1987) ("An arrest warrant is a judicial process by which, in the name of the State, a defendant is brought before the court to answer a criminal charge.").

In recognition of the necessity of judicial process to recall a warrant, the district court at the contested omnibus hearing identified the question it must answer as whether "police can rely on the sheriff's office and dispatch for confirming a warrant *if a judge signs a judicial determination,* and it never gets processed." (Emphasis added.) But the record does not show that "a judge signed a judicial determination" recalling the warrant, and the district court made no such finding.

Indeed, the record does not reflect either a contemporaneous or after-the-fact order from a district court judge recalling the arrest warrant. At oral argument, both parties also agreed that the record does not contain any judicial process changing the status of the active

warrant. No judicial process exists in the record changing the status of the warrant *before* Malecha was arrested. Law enforcement confirmed the existence of the active warrant at that time and before arresting Malecha. Based on the appellate record, the arrest and search of Malecha therefore occurred pursuant to an active warrant. Moreover, no judicial process exists in the record changing the status of the warrant *after* Malecha was arrested. The record does not reflect that the after-the-fact purported change to the status of the warrant was accomplished through judicial process. The *court administrator* filed a document entitled "Notice of Judicial Determination" purporting to represent that a district court judge had recalled the warrant many months prior. But, as the district court correctly recognized in its suppression order, the warrant recall was actually "issued by Court Administration," not a judge. Court administration has no authority to recall a warrant. A court administrator's "Notice" that a judge had issued judicial process many months prior is not judicial process and had no effect on the status of the court-ordered warrant.[1] *See Tobler*, 153 N.W.2d at 441 (stating that a "judge issuing a judicial order in his identified judicial capacity attests the order by his own signature"). The parties also agreed at oral argument that a court administrator has no authority to recall a warrant. Accordingly, the arrest warrant was not recalled because no judicial process exists in the record ordering the recall of the warrant.

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[1] The record contains no evidence that a district court judge delegated or attempted to delegate responsibility to the court administrator and no evidence that the court administrator was authorized by a district court judge to issue a "Notice of Judicial Determination."

Second, the district court clearly erred in finding facts not supported by the record. "A factual finding is clearly erroneous if it does not have evidentiary support in the record or if it was induced by an erroneous view of the law." *State v. Ezeka*, 946 N.W.2d 393, 403 (Minn. 2020) (quotation omitted). The district court found that the warrant was invalid "due to a clerical error by court administration [and] the quashing/recall of the warrant did not appear on the register of actions until after the error was discovered upon Defendant's arrest." The district court also found that, "Because Court Administration had not notified Rice County Jail of the recalled warrant in court file number 66-CR-19-1081, the warrant appeared active in the Rice County Jail's database until March 8, 2021." But no evidence in the record, stipulated or otherwise, supports these findings, all of which fall squarely in the category of questions unanswered by the record. The record on appeal is devoid of evidence showing a "clerical error by court administration," or what that error might be, or the origin of the claimed error, or who discovered such error or how, or that the warrant remained active in the jail database "because Court Administration had not notified Rice County Jail of the recalled warrant." I do not discount the possibility that the circumstances may be explained by administrative error. But so too is it possible that there may exist a reasonable explanation as to why the recall never became effective. Again, we do not substitute possibilities for facts, and the record on appeal does not contain any factual basis, stipulated or otherwise, to support these findings. Accordingly, the district court clearly erred in relying on these factual findings to justify the suppression order.

Third, the district court erred in finding that the changes in the official court record were effective in the absence of evidence showing that such changes comported with the

unambiguous policies and procedures of the Minnesota Judicial Branch. The integrity and security of the official court record is of paramount concern and priority. The Minnesota Judicial Council enacted Policy 505 entitled "Core Judicial Branch Goals" "to ensure accountability of the branch, improve overall operations of the court, and enhance the public's trust and confidence in the judiciary." Minn. Jud. Council, *Core Judicial Branch Goals* 505, https://www.mncourts.gov/mncourtsgov/media/Judicial_Council_Library/ Policies/500/505-Core-Judicial-Branch-Goals.pdf?ext=.pdf [https://perma.cc/9S8G-DB7H] (Policy 505). One of the "Core Judicial Branch Goals" is to "ensure the integrity and accountability of its performance by maintaining a record system that is accurate, complete and timely." Policy 505, *supra*. The Minnesota Judicial Council also enacted Policy 505.3 entitled "Data Quality and Integrity," which provides that it "is the policy of the Minnesota Judicial Branch to expect high levels of data quality within the Minnesota Judicial Branch and to emphasize the integrity and security of the data contained in the statewide case management systems." Minn. Jud. Council, *Data Quality and Integrity* 505.3, https://www.mncourts.gov/mncourtsgov/media/Judicial_Council_Library/Policies/ 500/505-3-Data-Quality-and-Integrity.pdf?ext=.pdf [https://perma.cc/GY6X-WS8A] (Policy 505.3).

Pursuant to those policies, the Minnesota State Court Administrator implemented "Data Quality Procedures" "to help ensure":

> A.   The integrity, quality, and security of the data contained in the systems of District Courts.

> B.   Accurate, complete, and uniform access to court records under the Rules of Public Access.

C.   Compliance with all applicable policies, rules,
and statutes with regard to data entry into systems of
District Courts.

Minn. State Ct. Adm'r, *Data Quality Procedures* 505.3(a), at 1 (Aug. 16, 2019) (Policy

505.3(a)). These procedures govern all district courts and the state court administrator's

office. Policy 505.3(a), *supra*, at 1. The policy defines a data quality adjustment as a

"change made to a defined set of data to improve data accuracy and integrity" resulting,

for example, from incomplete or incorrect data. Policy 505.3(a), *supra*, at 2. Data quality

adjustments must adhere to strict procedures:

> Upon discovery of a data quality issue, the [Minnesota Judicial] Branch may implement a data quality adjustment effort. Data quality adjustments will be a collaborative effort between the District Courts and State Court Administration.
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> Communications regarding data quality adjustments will be provided by designated staff at State Court Administration and will include the following:

> 1.   Explanation of the data quality issue.
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> 2.   Instructions for performing the data quality adjustment.
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> 3.   List of data requiring adjustment.
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> 4.   Delineation of the responsibilities for both District Courts and State Court Administration.
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> 5.   Deadline for completion of the adjustment.
>
> 6.   Monitoring methods.

Policy 505.3(a), *supra*, at 4.

The unexplained, backdated changes to Malecha's official court record implicate

the integrity, quality, and security of court data. The record on appeal does not establish

that the changes were authorized by anyone with the authority to do so or carried out

pursuant to branch policies and procedures. There is no record of a data quality adjustment effort reflecting a collaboration between the Minnesota State Court Administrator and the district court occurring between the confirmation of the active warrant and the changes to the court record. There is no record of the precise nature of the data quality issue, instructions for performing the data quality adjustment, or list of data requiring adjustment, delineation of the responsibilities of stakeholders, deadlines, or monitoring methods. In sum, the record on appeal is silent as to whether the changes to the official court record followed branch policies and procedures or were otherwise authorized.

Because the changes to Malecha's official court record cannot be validated, those changes cannot effectively alter the official court record. The district court had no factual or legal basis to conclude that backdated changes of unidentified origin or procedure to the status of the warrant in Malecha's court record were valid. The district court therefore erred in finding that the changes to the court record established that the warrant "was quashed by the District Court and thus was no longer active" at the time of the search.

I acknowledge and am sympathetic to the adverse impact to Malecha resulting from these irregularities. Again, it may be, as counsel for the state at the suppression hearing speculated, that the issuing judge "*probably* had at that time the *intention* to quash the warrant. . . . But *for whatever reason*, that communication didn't get to law enforcement." (Emphasis added.) But an *intention* by a district court judge to take action on a warrant has no effect; a completed action through the actual exercise of judicial process is required to make such intention effective. A court administrator has no authority to fulfill a probable intention of a district court judge in the absence of judicial process to accomplish that

intention. And to ensure transparency, integrity, and security of the official court record, any change to the official court record to correct an inaccuracy or mistake must follow established policies and procedures.

The official court record at the time of the search reflected the existence of an active warrant, and law enforcement searched Malecha incident to that valid arrest. The record does not support a conclusion that the arrest warrant was recalled at the time law enforcement arrested and searched Malecha. The official court record was changed after Malecha was arrested and searched. The record on appeal does not reflect who made the changes, what procedure was used to effect the changes, whether such changes complied with established policies and procedures of the Minnesota Judicial Branch, or that the changes were authorized or accomplished by judicial process from a constitutional authority.[2] Neither the changes of unknown origin to the official court record nor the notice issued by the court administrator had any effect on the status of the active warrant. Because law enforcement searched Malecha incident to a valid arrest, the district court erred in applying the exclusionary rule to suppress the fruits of the search. *See State v. Bernard*,

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[2] These unusual factual circumstances do not favor the application of a good-faith exception to the exclusionary rule. Assuming that Minnesota would recognize a good-faith exception to the exclusionary rule for irregularities in the administration of the court record, application of the exclusionary rule in a case such as this may well serve the purpose of deterring administrative irregularities or errors and encouraging compliance with branch policies and procedures to secure the integrity of the official court record. *See State v. Lindquist*, 869 N.W.2d 863 (Minn. 2015) (emphasizing deterrence of misconduct as the touchstone of application of any good-faith exception to the exclusionary rule in Minnesota).

859 N.W.2d 762, 766 (Minn. 2015). I would therefore reverse the district court's order

suppressing evidence discovered during that search and remand for trial.

SLIETER, Judge (dissenting)

I agree with the principal opinion that the arrest warrant was recalled by the district court prior to respondent Rebecca Julie Malecha's March 7, 2021, arrest. And, as a result, Malecha's warrantless arrest violated her constitutional right to be free from unreasonable searches and seizures. *See* U.S. Const. amend. IV; Minn. Const. art. 1, § 10. But, because the Minnesota Supreme Court has adopted the good-faith exception to the exclusionary rule only if law enforcement reasonably relied upon binding appellate precedent, which did not here occur, I would affirm the district court's suppression of the evidence. Therefore, I respectfully dissent.

Recalled Arrest Warrant

I concur with the factual recitation in the principal opinion that "[o]n December 15, 2020, the district court granted [Malecha]'s request to quash the warrant." It is this fact which compels my disagreement with the special concurrence.

I first note that appellant State of Minnesota, for the first time in its reply brief, argues that the district court's finding that the arrest warrant had been recalled prior to Malecha's arrest was "directly contrary to the record evidence, including the register of actions." A review of the record compels my disagreement.

"When reviewing a district court's pretrial order on a motion to suppress evidence, 'we review the district court's factual findings under a clearly erroneous standard and the district court's legal determinations de novo.'" *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quoting *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007)).

During the suppression hearing, the prosecutor informed the district court judge that there was no dispute regarding the facts and that the issue was solely one of law. The prosecutor then recited the agreed upon facts. Among the stipulated facts recited by the prosecutor is the following, "I think one of the facts that the State would also concede is I think that on December 15, [the judge] probably had at that time the intention to quash that warrant." Among the stipulated exhibits submitted to the district court is a "Notice of Judicial Determination" authored by the court administrator and which was created following the arrest of Malecha. It states that, "This notice is to provide verification that, based on [defense counsel's] request, [the judge] did grant the request to recall the warrant on December 14, 2020. The request was processed and the warrant was recalled on December 15, 2020."

These stipulated facts and evidence, among others, led to the following findings in the district court's suppression order:

- "On November 12, 2020, the court issued a bench warrant" for the arrest of Malecha.

- "On December 12, 2020, [Malecha]'s attorney motioned to quash the warrant."

- "The Court granted [Malecha]'s request on December 15, 2020, and the warrant was quashed by the Court."

- "However, due to clerical error by court administration, the quashing/recall of the warrant did not appear on the register of actions until after the error was discovered upon [Malecha]'s arrest."

- "Because Court Administration had not notified Rice County Jail of the recalled warrant . . ., the warrant appeared active in the Rice County Jail's database until March 8, 2021."

The state has pointed to no evidence which suggests that these findings are clearly erroneous. The register of actions adds nothing to this analysis because, as noted, it is factually undisputed that the judge's order to recall the warrant on December 15 was communicated to the court administrator but the order was not processed nor transmitted to law enforcement's database. Further, it is undisputed that the recall of the warrant did not appear on the register of actions until after Malecha's arrest.

And, it was proper for the district court to rely upon the statement of the court administrator to accurately reflect the decision of the judge to order the recall of the arrest warrant. Court administrators are constitutional officers. Minn. Const. art. VI, § 13; Minn. Stat. § 485.01 (2022) (providing that the constitutional office of district court clerk "shall be known as the court administrator"). As public officials, court administrators take the oath of office prescribed by the Minnesota Constitution, which includes the promise to "discharge faithfully the duties of [the] office to the best of [their] judgment and ability." Minn. Const. art. V, § 6; *see also* Minn. Stat. § 358.055 (2022). I see nothing in the record which calls into question the court administrator's statement that "the warrant was recalled on December 15." Thus, the district court's finding was not clearly erroneous.

Because the district court's factual finding that the arrest warrant was ordered recalled before Malecha's arrest is not clearly erroneous, I next analyze why the district court correctly concluded that the good-faith exception to the exclusionary rule for clerical errors is not the law in Minnesota.

Good-Faith Exception

"In a criminal case, the remedy for an illegal search or seizure is generally limited to the suppression of illegally obtained evidence" and the "fruits" of the illegal search or seizure. *State v. Horst*, 880 N.W.2d 24, 36 (Minn. 2016). The United States Supreme Court "recognized" the exclusionary rule over a century ago and incorporated it to the states over 60 years ago. *State v. Lindquist*, 869 N.W.2d 863, 868 (Minn. 2015) (citing *Weeks v. United States*, 232 U.S. 383, 392 (1914) and *Mapp v. Ohio*, 367 U.S. 643, 655 (1961)). But, beginning in the mid-1980s, it "has limited the applicability of the exclusionary rule to the Fourth Amendment through a series of good-faith exceptions." *Id.* at 869 (citing *United States v. Leon*, 468 U.S. 897 (1984)). One such exception established by the United States Supreme Court is for "clerical errors of court employees." *Arizona v. Evans*, 514 U.S. 1, 16 (1995).

In *Lindquist*, the supreme court addressed, for the first time, "whether to adopt any good-faith exception to the exclusionary rule for evidence obtained in violation of a defendant's constitutional rights against unreasonable searches and seizures." 869 N.W.2d at 870.

Ultimately, the supreme court adopted the federal exception to the exclusionary rule for evidence obtained "when law enforcement acts in objectively reasonable reliance on binding appellate precedent." *Id.* at 876. But it specifically "note[d] the narrowness of [its] holding" and warned that "nothing in our opinion should be construed as authorizing the application of exceptions we have not explicitly adopted." *Id.* at 876. And the supreme court has reiterated that *Lindquist* "recognized a very narrow good-faith exception to the

exclusionary rule" and declined to extend the good-faith exception beyond "reliance on binding appellate precedent." *State v. Leonard*, 943 N.W.2d 149, 161 (Minn. 2020) (quotation omitted); *see also State v. Fawcett*, 884 N.W.2d 380, 391 (Minn. 2016) (Lillehaug, J., dissenting) (declining to join the portion of Justice Stras's dissent which announced his interest adopting the federal good-faith exception in full).

The role of this court is to identify and correct errors and "describe[] what we believe to be the current state of the law." *State v. Rodriguez*, 738 N.W.2d 422, 432 (Minn. App. 2007) (citing *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988)), *aff'd*, 754 N.W.2d 672 (Minn. 2008). "The task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court." *Id.*

The supreme court was clear in *Lindquist* that it was adopting an exception to the exclusionary rule for reasonable reliance on binding precedent, but no other federally recognized exceptions. 869 N.W.2d at 876. The supreme court has not "explicitly adopted" the federally recognized good-faith exception stated in *Evans* for clerical errors and, instead, has explicitly repeated the narrowness of its holding in *Lindquist*. *See Leonard*, 943 N.W.2d at 161. Therefore, I respectfully dissent from the judgment of the principal opinion and would affirm the district court's suppression of the illegally obtained evidence.